IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2028 OF 2005

IN

SUIT NO.26 OF 2005

Shri.Ashok Kharawala sole proprietor of
Ashok Chemical Co. ... Plaintiff.

vs.

1.Mr.Govardhanbhai Lalji Patel & others. ...Defendants

Mr.Naushad Engineer i/b. Apex Law Partners, for Plaintiff.

None for Defendants.

CORAM: D.K.DESHMUKH,J.

DATED: 9th March, 2007

P.C.:-

1. This is a notice of motion taken out by the plaintiff. The plaintiff is claiming a decree of declaration that the plaintiff has become the owner of the suit property by adverse possession. The plaintiff is also claiming an order of temporary injunction restraining the defendants from disturbing his possession on the allegations that

some unidentified persons claiming to be the agents of the defendants tried to disturb his possession.

2. Firstly, I do not find any document produced on record by the plaintiff showing that his possession was hostile to the defendants who, according to him, are the owners of the land, and therefore, at this stage it can not be prima facie said that the plaintiff is in possession of the land adversely to the defendants. Secondly, the allegations in the affidavit filed in support of the notice of motion of the alleged attempt to disturb the possession of the plaintiff found in "paragraph 7" are extremely vague. On the basis of these allegations it cannot be said that the defendants are trying to disturb the possession of the plaintiff. The plaintiff, thus, is not entitled to any interim order. Notice of motion is disposed of.